

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	:	
	:	
v.	:	1:20CR324-1
	:	
HENRY ALBERTO ARAYA-VEGA	:	

FACTUAL BASIS

NOW COME the United States of America, by and through Matthew G.T. Martin, United States Attorney for the Middle District of North Carolina, and as a factual basis under Rule 11(b)(3), Fed. R. Crim. P., states as follows:

Henry Alberto Araya-Vega (“Araya”) was born on February, 20 19XX in Cartago, Costa Rica and is a citizen of Costa Rica. On or about August 22, 2013, ARAYA-VEGA was issued a non-immigrant J-2 visa (as a spouse of a J-1 exchange visitor). Araya was in a non-immigrant J-2 status from August 22, 2013 through September 6, 2018, when he changed his status from J-2 to H-4 (as spouse of foreign worker in a specialty occupation, status designation H-1B). Araya’s alien file reference number is XXX 859 395.

Araya has never applied for nor petitioned for United States citizenship. Araya knew he was not a United States citizen at all relevant times. Araya, in fact, is not and never has been a United States citizen.

On September 17, 2016, Araya executed and submitted a voter registration form titled “North Carolina Voter Registration Application.” In box 1, the form states, “Are you a citizen of the United States of America?” The box is checked “yes,” indicating that Araya is a citizen of the United States. The attestation above the signature line at the bottom of the form states “I attest, under penalty of perjury, that in addition to having read and understood the contents of this form, that: I am a United States citizen, as indicated above . . . .” (emphasis in original). Araya signed the form, so attesting.

On November 8, 2016, which was Election Day, Araya went to his assigned polling place in Forsyth County, North Carolina and cast a vote in the November 2016 election, which was held for the purpose of electing a candidate for the office of President, Vice President, Member of the United States Senate, and Member of the United States House of Representatives, among other positions on the ballot.

On April 6, 2017, Araya acknowledged to officials with the North Carolina Board of Elections that he is a citizen of Costa Rica, had registered to vote, and voted in the November 2016 election.

On March 13, 2019, Araya acknowledged to Department of Homeland Security agents during a voluntary, non-custodial interview at Forsyth

Technical Community College that he was a citizen and native of Costa Rica, that he was not a citizen of the United States, that he registered to vote by submitting the North Carolina Voter Registration Application described above, and that he voted in the November 2016 election.

This the 25th day of September, 2020.

Respectfully submitted,

/S/ MATTHEW G.T. MARTIN  
United States Attorney  
NCSB #32814  
United States Attorney  
101 S. Edgeworth Street, 4th Floor  
Greensboro, NC 27401  
336/333-5351  
Email: matt.martin@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2020 the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

J. Scott Coalter, Esquire

/S/ MATTHEW G.T. MARTIN  
United States Attorney  
NCSB #32814  
United States Attorney  
101 S. Edgeworth Street, 4th Floor  
Greensboro, NC 27401  
336/333-5351  
Email: matt.martin@usdoj.gov